

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TERRACE ELLIS,
Plaintiff,

v.

FRANKLIN COLLECTION SERVICE,
INC., et al.,
Defendants.

Case No. [14-cv-02833-BLF](#)

**ORDER GRANTING DEFENDANT DAN
FRANKLIN'S MOTION TO DISMISS;
GRANTING PLAINTIFF'S MOTION
FOR LEAVE TO FILE A FIRST
AMENDED COMPLAINT**

[Re: ECF 20, 31]

Before the Court is the Motion to Dismiss filed by defendant Dan Franklin on August 11, 2014, requesting that this Court dismiss the claims against him for lack of personal jurisdiction or, alternatively, for failure to state a claim. Def.'s Mot., ECF 20. Plaintiff Terrace Ellis, proceeding *pro se*, did not file an opposition to Defendant's motion. Rather, on September 11, 2014, Plaintiff filed her Motion for Leave to File a First Amended Complaint. Pl.'s Mot., ECF 31. Plaintiff's motion and proposed amended pleading indicate that she intends to dismiss Mr. Franklin from this lawsuit. *Id.* 2. The time for opposing Plaintiff's motion has elapsed, and defendant Franklin did not file an opposition. Both motions are presently scheduled to be heard on October 16, 2014.¹ Because both motions are unopposed, the Court finds the matters suitable for submission without oral argument and accordingly VACATES the October 16, 2014 hearing date for both motions. Civ. L.R. 7-1(b).

IT IS HEREBY ORDERED THAT:

Defendant Dan Franklin's Motion to Dismiss is GRANTED, and Mr. Franklin is hereby

¹ The Court notes that both motions were filed without first reserving a hearing date, in violation of this Court's standing order. All parties, represented or unrepresented, are expected to comply with the applicable Federal Rules, the local rules of this district, and with the standing orders of this Court. Civ. L.R. 1-4; 1-5(o); 3-9.

DISMISSED from this action;

Plaintiff's Motion for Leave to File First Amended Complaint is GRANTED. On or by **October 13, 2014**, Plaintiff shall file her proposed Amended Complaint (Pl.'s Mot. Exh. B), without any further alterations, into the record as her First Amended Complaint.

IT IS SO ORDERED.

Dated: September 29, 2014


BETH LABSON FREEMAN
United States District Judge